

Banking House of J. I. Cohen & Brothers, in the year 1839, by the then proprietors thereof, and that no transfer of these shares was ever made by B. I. Cohen individually.

It also appears, that in the year 1827, six gentlemen were appointed trustees of the theatre, under an agreement between the stockholders and William Warren, the terms of which are stated by Mr. Meredith, in his deposition. The trustees were Messrs. Gwynn, Lucas, Stewart, Frick, B. I. Cohen and Meredith.

By an arrangement, the details of which are given in the deposition of the same gentleman, certain shares of stock which stood in the name of B. I. Cohen were transferred by him to individual members of the trustees in extinguishment of a debt due by Cohen to the trust fund, with an understanding that each of the trustees to whom transfers were thus made should give bond for the same, and should also, as a further security, retransfer the stock to the treasurer of the board of trustees, retaining, however, the use of the shares until they should be called upon to surrender them. Bonds were accordingly given by all the parties, including B. I. Cohen, who retained four shares under the arrangement, and in November, 1842, all the parties except Cohen, retransferred to the treasurer the shares placed in their respective names, with a memorandum opposite each transfer, in the transfer book, that the same was made as collateral security for the bonds given by them as above mentioned.

On the 11th of April, 1843, Mendez I. Cohen transferred to Johnson & Lee, the same thirty-five shares which on the 14th of June, 1841, had been transferred to him by J. I. Cohen & Brothers, and on the 23d of May, 1843, Johnson & Lee retransferred the same thirty-five shares to him.

B. I. Cohen having died indebted to the trust fund in the amount of the bond so given by him, being \$426 50, and having but one share of stock now standing in his name, certain parties, having an interest in the fund for distribution, object to the allowance to Mendez I. Cohen, of the dividend due upon shares numbered 44 and 76, because as they allege, these shares constituted a part of the trust fund, and were known to be such